

## **Conservation Easement Proposition 1 Edwards Aquifer Protection Program Interlocal Cooperation Contract**

This Interlocal Cooperation Contract (Contract) is between the Edwards Aquifer Authority (EAA) and the City of San Antonio (City) as of the date of the last of the signatures on this Contract.

### *Predicate Facts*

The EAA is a conservation and reclamation district created under Article XVI, Section 59, Texas Constitution, pursuant to the Edwards Aquifer Authority Act (Act), Act of May 30, 1993, 74th Leg. R.S., Ch. 626, §§ 1.02(a) and 1.06(b), 1993 Tex. Sess. Laws 2350, as amended;

Under Sections 1.08(a) and 1.14(a)(1) of the Act, the EAA is charged with protecting the quality of the groundwater within the Edwards Aquifer (Aquifer);

Among the strategies to protect the quality of the Aquifer is to acquire lands on the recharge and contributing zones of the Aquifer that have not yet been developed in order to (1) protect sensitive recharge features from removal, damage, or degradation, (2) protect the quality of the surface water originating on the lands; and (3) improve the opportunity for the surface water to enter the Aquifer through recharge features in the highest water quality practicable;

Under Section 1.11(d)(2) of the Act, and other applicable law, the EAA is authorized to enter into contracts;

The City is a home-rule municipality;

The City operates and implements an Edwards Aquifer Protection Program (EAPP);

From time to time under the EAPP, the City acquires conservation easements and fee interests on lands located on the recharge or contributing zones with the primary purpose of protecting the quantity and quality of recharge into the Aquifer.

The City desires to delegate to the EAA certain responsibilities of the EAPP;

Both the EAA and the City are "local governments" as defined in the Interlocal Cooperation Act, Section 791.003(4), TEXAS GOVT CODE;

The activities sought to be transferred are "governmental functions and services" as defined in the Interlocal Cooperation Act, Section 791.003(4) TEXAS GOVT CODE, and each party to this Contract has the legal authority to perform these functions individually;

The EAA and City have the right to enter into this Contract pursuant to the Interlocal Cooperation Act, Ch. 791, TEXAS GOV'T CODE; and

The EAA and the City represent to each other that the respective government bodies of each entity have duly authorized it to enter into this Contract.

Both parties intend for this agreement to substitute in all things the previous agreement adopted by City Council on March 6, 2008.

### *Rights and Obligations'*

Now, therefore, in consideration of the above and the mutual covenants, terms, and conditions contained herein, and pursuant to the authority given to the parties under the Interlocal Cooperation Act, Ch. 791, TEXAS GOVT CODE, the parties agree as follows:

#### **1.0 PURPOSE.**

This Contract sets out the terms and conditions delegating to the EAA certain functions which would otherwise be performed by the City under the EAPP.

#### **2.0 TERM; TERMINATION.**

This Contract begins October 1, 2016, and terminates on September 30, 2021. Either party may terminate this Contract for any reason at any time by giving 90-days' prior written notice to the other party.

#### **3.0 DUTIES OF THE EAA; EAPP PROPERTIES.**

- 3.1. The EAA agrees to assist the City in implementing the EAPP by performing the functions set out in Exhibit A, and all other functions reasonably incident thereto, except as expressly reserved by the City.
- 3.2. The EAPP properties the City has at the inception of this Contract are identified in Exhibit B. EAPP properties acquired after the inception of this Contract are nevertheless subject to this Contract to the same extent as they would be if listed on Exhibit B.

#### **4.0 RIGHTS AND DUTIES OF THE CITY.**

4.1. City reserves the following rights:

- a) To have all proposed EAPP acquisitions reviewed by its Conservation Advisory Board for a recommendation whether to proceed.
- b) To have City Council make a final determination whether to obtain a proposed acquisition.
- c) To coordinate with the EAA and review EAPP operations.
- d) To designate legal counsel who will assist the Land Acquisition Team in the negotiation, due diligence, and document preparation for proposed acquisitions, to the extent the legal counsel are paid from EAPP funds.

- e) To exercise all monitoring rights granted to the City under an easement.
  - f) To grant or withhold any consents of City required under an easement.
  - g) To establish enforcement protocol on all conservation easements.
- 4.2. The City will execute appropriate documents and take other steps to enable EAA to enter EAPP properties at all times necessary for the EAA to perform its functions under this Agreement, as may be allowed by the conservation easements.
- 4.3. The City will supply the EAA with all maps, documents, records, or other information in the City's possession that, in the EAA's judgment, is necessary for it to perform its functions under this Contract.
- 4.4. The City will advise the EAA in writing of any known hazardous or dangerous conditions on any of the EAPP properties prior to the EAA's first entry on any of the properties, other than hazards and conditions ordinarily expected in property of a similar nature in the general area.

## **5.0 ASSIGNMENT; SUBCONTRACTING.**

Without the prior written consent of the City, the EAA may not assign or otherwise subcontract to a third-party the functions transferred to it under this Contract.

## **6.0 COST SHARING**

6.1. The total annual costs of the tasks covered by this Contract are estimated to be \$361,503.16.

6.2. Geologic Evaluation. The EAA will bear all costs associated with geologic evaluation of prospective EAPP properties.

6.3. Conservation Easement Monitoring. The City agrees to pay the EAA \$175,000, each year for the duration of this Contract for conservation easement monitoring services.

6.4. The following table summarizes the shared and total costs for the EAA's geologic evaluation and easement monitoring of EAPP properties.

|                       | <b>City Share</b>   | <b>EAA Share</b>    | <b>Total</b>        |
|-----------------------|---------------------|---------------------|---------------------|
| Geologic Evaluation   | \$0.00              | \$64,470.00         | \$64,470.00         |
| Easement Evaluation   | \$175,000.00        | \$122,033.16        | \$297,033.16        |
| <b>Total Expenses</b> | <b>\$175,000.00</b> | <b>\$186,503.16</b> | <b>\$361,503.16</b> |

The EAA will provide the City with annual invoices for the City’s portion of the EAPP. The terms of each invoice shall be net thirty (30) days upon the City’s receipt and approval. Beginning in 2016, payment will be due not later than December 31 of each year.

**7.0 ENTIRE AGREEMENT; AMENDMENT.**

This Contract is the entire agreement between the parties. No amendment of this Contract shall be binding on the parties unless it is in writing, duly approved by the respective governing bodies, and executed. All exhibits are incorporated into this Contract for all purposes as if fully set forth.

**8.0 CONTRACT REPRESENTATIVES; NOTICES**

Addresses for notice are as follows:

|   |  |
|---|--|
| General Manager<br>Edwards Aquifer Authority<br>900 E. Quincy<br>San Antonio, Texas 78215<br>(210) 222-2204 | Director, Parks and Recreation Department<br>City of San Antonio<br>P.O. Box 839966<br>San Antonio, Texas 78283-3966<br>(210) 207-7080 |
|---|--|

Notices under this Contract must be in writing and delivered to the addresses above. Notice for address may be changed by delivering notice.

**In witness whereof**, the parties have caused their representatives to set their hands:

**EDWARDS AQUIFER AUTHORITY**

\_\_\_\_\_  
Roland Ruiz  
General Manager

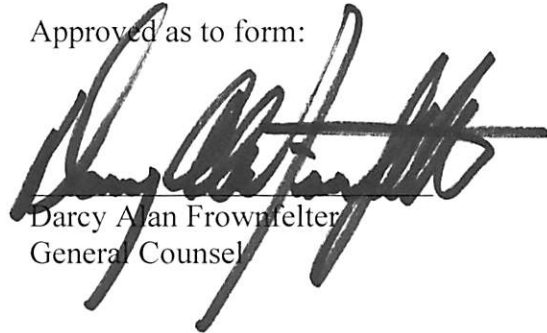
Attest:

\_\_\_\_\_  
Jenifer Wong-Esparza  
Assistant to the Secretary

**CITY OF SAN ANTONIO**

\_\_\_\_\_  
Date

Approved as to form:

  
\_\_\_\_\_  
Darcy Alan Frownfelter  
General Counsel

\_\_\_\_\_  
Xavier D. Urrutia  
Director, Parks and Recreation Department

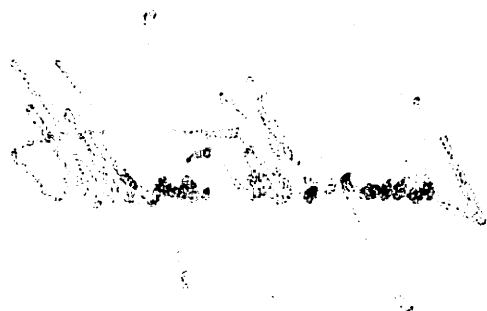
Attest:

\_\_\_\_\_  
Leticia M. Vacek  
City Clerk

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
Martha G. Sepeda  
City Attorney



**EXHIBIT A**  
**Functions Transferred to EAA**

1. EAA shall review and evaluate the recharge and water quality value of any land or easement acquisitions proposed by the City's Land Acquisition Team before proposed acquisition is presented to the Conservation Advisory Board. EAA shall present the results of the EAA's evaluation, along with any recommendations to the appropriate subunits of the City, which may include the Conservation Advisory Board, Planning Commission, City Council, Quality of Life Council, or other subunit, as may be appropriate.
2. EAA must prepare a Conservation Easement Management and Monitoring Plan (CE Plan) for each EAPP property for review and approval by the City. The CE Plan must provide for regular on-site inspections, identify compliance criteria with emphasis on prohibited land uses, and other provisions designed to ensure compliance with the terms and conditions of the conservation easement applicable to each EAPP property. The City may approve plan updates without council action.
3. EAA must put into effect and follow the approved CE Plans.
4. Within 30 calendar days after EAA becomes aware of a violation or potential violation of a conservation easement, it must notify City and recommend suggested action to enforce the terms or conditions of the conservation easement.
5. Annually, EAA must report to the City on the status of approved CE Plans. City may request more frequent reports.
6. As EAA learns of pertinent information, EAA must notify City of (a) proposed sales of conservation easement property, and (b) changes in building envelopes on conservation easement property.

**EXHIBIT B**  
**Current Properties (as of July 15, 2016)**

|  |   |
|--|---|
| Arabia Ranch                             | J Bar M Ranch                           |
| Barden Ranch                             | Jordan Ranch                            |
| Blanco Creek - Marneldo Ranch            | Knowlton Ranch                          |
| Blanco Creek - Spring Bluff Ranch        | Koch Ranch                              |
| Blanco Creek - Story Division 1          | Lee Ranch                               |
| Blanco Creek - Story Division 2          | Long Hollow Ranch                       |
| Blanco Creek - Story Division 3          | Mabe Canyon                             |
| Blanco Creek - Story Division 4          | Madla Park                              |
| Blanco Creek - Story Division 5          | Martin Ranch II                         |
| Blanco Creek - Story Division 6          | Martin RanchI                           |
| Blanco Creek - Tull - Concert Brass Farm | McNair Ranch                            |
| Blanco Creek – Chernosky Ranch           | McNeel Ranch                            |
| Blanco Springs Ranch - Horton            | Oefinger Ranch                          |
| Bourquin Ranch                           | Prop. 3 Gov. Canyon - Dreis             |
| Morrow Ranch                             | Prop. 3 Gov. Canyon - Gallagher         |
| Briscoe – Frio Ranch                     | Prop. 3 Gov. Canyon – Hampton           |
| Brucks Ranch                             | Prop. 3 Gov. Canyon – Iron Horse        |
| Burell Ranch                             | Prop. 3 Gov. Canyon – Laredo Culebra    |
| Concan/Ewing Ranch                       | Prop. 3 Gov. Canyon – Laredo Culebra II |
| Crescent Hills-Dierks Ranch              | Prop. 3 Gov. Canyon – Mayberry          |
| Cypress Roots Ranch                      | Prop. 3 Gov. Canyon – Schuchart         |
| Dehnisch Ranch                           | Prop. 3 Gov. Canyon - Windgate          |
| Domino Ranch                             | Ridgeback Ranch                         |
| ESS Ranch                                | Saathoff Ranch                          |
| Evans Ranch                              | Schreiber Ranch                         |
| Finger Ranch                             | Schuehle Ranch                          |
| Friday Ranch                             | South Hills Ranch – Watson Ranch        |
| Gilleland Ranch                          | Story/Hadley Ranch                      |
| Goodhorse Ranch                          | TMR Ranch                               |
| H.B. Martin Ranch                        | Twin Hollow Ranch                       |
| Hammond Ranch                            | Urso Ranch                              |
| Heep Ranch                               | W.O. Rothe Ranch                        |
| Hilsher Darnell Ranch                    | WMJ Ranch                               |
| Hixon (Estrella) Ranch                   | Wylesta Ranch                           |
| Horton Ranch                             | Young Ranch                             |
| Hutzler (Denada) Ranch                   | Zuberbueler Ranch                       |